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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
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11 VAHAN JALADIAN,

No. CIV S-04-1304-LKK-CMK-P

12 Plaintiff,

13 vs.

ORDER

14 CRIBBS,

15 Defendant.  
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17 Plaintiff, a state prisoner proceeding pro se, brings this civil rights action pursuant  
18 to 42 U.S.C. § 1983. On July 24, 2008, the court issued an order requiring plaintiff to respond to  
19 a proposed stipulation by defendant, filed June 9, 2008. No response has been received.

20 Pursuant to the court's previous order, if plaintiff failed to respond, the court  
21 would vacate that portion of the court's previous order allowing inmate Loving to testify. As  
22 plaintiff has not responded, plaintiff will not be permitted to call inmate Loving as a witness.

23 However, upon further review of the defendant's June 9, 2008 filing, it appears  
24 that defendant may wish to call inmate Loving to testify regarding facts relating to plaintiff's  
25 credibility if plaintiff was not willing to stipulate to the facts set forth in that filing. Therefore,  
26 plaintiff will be provided another opportunity to determine whether or not to stipulate to the facts

1 presented in defendant's June 9, 2008, filing. If plaintiff does not stipulate or respond, inmate  
2 Loving will be brought to court and may be called as a witness by defendant.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Plaintiff is not permitted to call inmate Loving as a witness during the trial  
5 in this matter;

6 2. Plaintiff may respond to this order and defendant's request for a  
7 stipulation of facts, filed June 9, 2008, within 20 days of service of this order;

8 3. If plaintiff fails to respond to this order and stipulate to the facts in  
9 defendant's filing, defendant will be allowed to call inmate Loving as a witness; and

10 4. By separate order, inmate Loving and plaintiff will be ordered to appear at  
11 the trial set before the Honorable Lawrence K. Karlton, on October 21, 2008.

12  
13 DATED: September 3, 2008

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15 **CRAIG M. KELLISON**  
16 UNITED STATES MAGISTRATE JUDGE  
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